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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,572	12/04/2003	Louis Levesque	RP-01171-US2	5111
28735 7590 06/22/2007 OSLER, HOSKIN & HARCOURT LLP (BRP) 2100 - 1000 DE LA GAUCHETIERE ST. WEST MONTREAL, H3B4W5 CANADA			EXAMINER MOSSER, ROBERT E	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 06/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/726,572

Applicant(s)

LEVESQUE, LOUIS

Examiner

Robert Mosser

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims, **1-2, 5-8, 12-17, 19, and 21-22** are rejected under 35 U.S.C. 102(e) as being anticipated by Clapper et al (US 6,752,720).

Clapper teaches a video gaming device including:

a processors in communication with a computer readable memory (Col 1:63-2:3);

a video interface (Elements 1115, 180);

a topographical display (Figure 3);

a heads-up display for displaying computer generated images overlaying a surrounding environment and other player vehicles (Figures 2,4, Col 3:60-4:10, Claim 29);

a plurality of sensors for sensing external input and vehicle throttle position used to influence play of said video game (Col 2:4-16; 2:41-49, Figure 1);

a vehicle engine interface for providing information regarding an engine operating parameter and enabling the processor to control the engine (Col 2:36-58, 3:2-9; Figure 1);

a location sensor for sensing the geographic location of said device, said location sensor in communication with said processor to provide data indicative of said geographic location to said processor (Col 2:11-16); and

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wherein said processor readable memory storing gaming software to present a video game including an obstacle course on said heads-up display, wherein play of said video game is at least partially controlled by said data from said location sensor(Figure 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clapper et al (US 6,752,720) as applied to at least claim 1 above, and further in view of Torch (US 6,542,081).

Clapper teaches the electronic gaming device as set forth above however is silent regarding the inclusion of a wearable sensor for sensing the position of a user's helmet, and the use of a global positioning system satellite receiver however, in a

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related heads-up display unit Torch teaches the implementation of a wearable sensor for sensing the position of a user's helmet (*Torch* Col 17:48-61, 18:66-19:11), and the use of a global positioning system satellite receiver (*Torch* Col 8:42-51) compatible with electronic game devices (*Torch* Col 15:10-12). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the features of Torch as mentioned above into the invention of Clapper et al in order to provide a known mounting system for a heads-up display, utilize a known positioning system independent of surrounds physical features, and/or incorporate an additional input device that is responsive to a user's natural motions.

Claims 10, 11, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clapper et al (US 6,752,720) as applied to at least claim 1 above; and further in view of Schneier et al (US 5,768,382).

Claims 10, 18, 20: The invention of Clapper is silent regarding limiting the operation of a gaming device based on the presence of said gaming device outside a predefined area, however in a remote access gaming device Schneier teaches this feature (*Schneier* Col 14:39-55). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the limiting feature of Schneier into the gaming device of Clapper in order to ensure that the gaming device is not utilized in an area where it is prohibited by law from doing so.

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Claim 11: Clapper teaches a video gaming device including gaming software that is responsive to incursions of other player operated gaming devices (Col 5:3-22).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RM/
June 14th, 2007


MARK SAGER
PRIMARY EXAMINER